

that he discovers the error. Upon seeing the mistake he immediately calls the FCC and informs them of the problem.

After this discussion by Mr. Easton, Mr. Movshin addresses the Board. He confirms that after the 30 minute window provided by the FCC for the withdrawal of bids, the withdrawal of any bids will be subject to a withdrawal penalty. He proposes a series of measures in order to correct the problem. First he says that the Company should retain a consulting firm such as Price Waterhouse in order to conduct a check and balances review to determine if improvements or changes should be incorporated. A written report of these findings should be prepared and submitted to the FCC. Secondly, there should be a rule that two bidders are constantly on the scene to prepare and review the bid sheet; both signatures should finally sign off on the bid sheet to be submitted to the FCC. In this regard the bids should be prepared the night before and checked the morning after. In the third place there should be a sliding scale warning system on Excel in the event any bid is 25% higher than the previous bid.

At this point Ms. Minnich asks whether the error could have been done intentionally by the operator. Mr. Easton answers that he believes not. At present Mr. Easton indicates that Mr. Breen will be in San Mateo, he will prepare the bid the night before, and in the morning he and Ronit check the bids before submission. They will check the spreadsheet to the minimum bid sheet and if

subsequent changes are required then they will take a waiver or if time allows; it will be incorporated into the Spreadsheet file and forwarded to the FCC.

Mr. Goldstein adds that retaining Price Waterhouse to perform the study would be very helpful and he fully recommends it. Mr. Parks adds that maybe Mr. Movshin's firm should be retained in conjunction with Price Waterhouse to perform the review. Mr. Goldstein believes that combination to be a good one. Thereafter, upon motion duly made by Mr. Lamoso and seconded by Ms. Minnich it was unanimously,

RESOLVED that Price Waterhouse be retained by the Company to perform a checks and balances study and review with respect to the computer system set up for the FCC "C" block bidding system.

At this point Mr. Goldstein asks to be excused and Mr. Martinez thanks him for his attendance and participation.

As the next order of business, Mr. Movshin stated that the executive committee has been offered the Alaska MTA market. The ultimate price he believes will be \$5 million. About \$1.2 million would be due at closing. The balance to be paid on an agreed upon schedule. Mr. Movshin explains that an MTA license normally is paid in cash in full upon the acquisition. These licenses are fully transferable. It is available immediately, the license and the assets will secure the unpaid balance to represented by non-recourse debentures. The interest payable will be 5.7% per annum.

There will be the right to prepay the debentures. If the license is challenged the seller will return all of the monies on the sale plus the interest. The seller was told that the sale would be brought to the consideration of the Board. Mr. Breen informs the purchase price translates into a \$2.60 price per pop market. He further informs that the proposed debentures are convertible in years 7,8,9, and 10. He believes that the licenses need to be evaluated, and that the build out will be very difficult because of the distances. However, there have been on-going good faith negotiation with respect to this acquisition.

Mr. Easton believes that the transaction is a good one because, the A & B block licenses are freely transferable, the financing terms are not much different to that offered under the C block licenses, there is no guarantee that the C Block licenses will not go up to \$20 per pop. Also, the Company could have a headstart in the development of the technology to be used and thereby have an early start at capturing the market. Mr. Perry says that the initial build-up will take several million dollars and Mr. Martinez indicates it will divert the concentration and time of the Company that need to be devoted to the problems at hand. Upon motion duly made by Mr. Breen to approve the foregoing transaction the vote was as followed: Messrs. Breen, Easton, and Lamoso vote in favor; Ms. Minnich, Mr. Martinez, Mr. Parks, Ms.

Jordan, Mr. Arizala, and Mr. Perry vote against the motion. Accordingly, the motion does not carry.

As the next order of business, Mr. Lamoso informs that with respect to the directors and officers liability insurance the binder should be forthcoming very shortly. The insurance, he reports, has been in effect as of September of 1995. On this point, Mr. Parks asks about the SEC exclusions. Mr. Lamoso indicates he is not sure but will have the answer for the next Board meeting.

As the next order of business, a discussion ensues with respect to the consultants feedback on the business plan proposed by the Company. On this matter Mr. Lamoso reports that the Company has retained Gemini Consulting Group. Also, the London offices of Gemini were retained for a possible joint venture with European telecommunications companies such as Deutsch Telecomm, Motorola, and Ericsson. Also it was informed that BIA has evaluated the financial plan. The analysis involves the review of spreadsheet models that are consistent with the realities. This company has determined that in most cases the financial plans of the Company make economic sense. Additionally, Mr. Easton reports on the retention of BDR, a marketing company based in Stanford, Connecticut. He has met with them and has found their report to be unacceptable. He has returned it with suggested comments. Other consulting firms are currently being looked at.

Mr. Easton further informs that as it relates to the set up of management and the business, the Company has been looking for a builder for the infrastructure operator, and design executives. He indicates that from an infrastructure point of view for each license acquired, the Company is considering forming subsidiaries to be wholly owned by the partnership which would hold the license.

Additionally, a management company would be set up under the partnership that would operate the licensed companies on a daily basis. There would be at least two people in the management company, a CFO who would work under Richard Reiss, and Vice-President of operations who would oversee all of the subcontractors, in the build-out of the systems. There would also be marketing people in order to develop the systems. An engineering site selection person would also be important.

On the investment side of the business, it is reported by Mr. Lamoso that they have talked to Northern Telecom, and certain pension trusts and investment bankers that are contacts of Mr. John Duffy. The problem currently is the lack of a business plan. The Company knows the market, the technology that is needed, and the infrastructure required. It is reported that meetings have also been held with Paine Weber and with Ericsson.

As the next order of business, Mr. Easton gives a report on the last auction report. He indicates that bidders are effectively

bidding up the markets making them expensive. In this connection he discusses the color markings of the bidding map.

As the next order of business, Mr. Lamoso indicates that the Company needs to borrow \$18,000 in order to cover an overdraft. The Company will borrow the money from Romulus. To date the Romulus has pledged Certificates of Deposit of \$300,000 to cover borrowings by the Company. There have been a series of expenses incurred on behalf of the partnership. Accordingly, the partnership needs to reimburse the Company about \$200,000. Upon motion duly made by Mr. Parks and seconded by Mr. Perry it was unanimously,

RESOLVED to permit the Company to borrow from Romulus Corporation the amount of \$100,000 on terms to be negotiated by the management group of the Company, and to obtain from the partnership a reimbursement of monies owed the Company estimated at this point to be about \$200,000.

As the next order of business, Mr. Breen indicates that since Mr. Easton is the CEO of the Company he should be an authorized signator. Upon motion duly made by Mr. Breen and seconded by Mr. Arizala, it was unanimously,


RESOLVED, that Mr. Easton be an authorized signator on all accounts of the Company.

There being no further business the meeting was adjourned.

The meeting was thereby adjourned.

A true record.

ATTEST:



Lawrence Odell, Secretary

Fred M., Javier L.,

ATE: Resign from bid team
LOA from Unicom immediately

This is the reason why
FCC was hostile

FG - ^{concur} In add to FCC matter, Jav
has financial issues

ATE re decl

p 1 correct, except that
bids at dir of Easton or
Breen. Easton that day.

^{correct}
p 2 Locks changed b/c employee
left. New keys didn't work
Ext rushed in ...

ATE did initial and sign
the incorrect bid as on
copy.

Tedder Q re 4 packets withdrawn.
TE then updated dB, signed
update and put in binder.

pp 2-3 in flash reports
ATE doesn't know of this.

Ron's files were from FTP
to Unix box.

Ronit remembers ~~calling~~
going into ATE w/ problem.
Someone else called FCC
ATE spoke to them. Not
sure ~~if he~~ what he said
FCC asked if he had
previous report. He said he
didn't know - hadn't seen.

Concluded it was our fault
after backloading from

Papers were gone from binder
because they were in use being
sent to Comm.

ATE didn't throw papers away

QCB

- Q asked what the problem
- She said she didn't want to have anything to do w/ anything improper. Ifc might want to become members of the bar.
- ~~She said to QCB~~ She said to QCB Terry had said things on recorded FCC line that she didn't think were correct and she didn't want to be involved. She said Terry was trying to blame on FCC. QCB just listened.

ATE - One thing about removing ATE from bid team. Another thing w/ to remove from analysis.

FM - Subj to counsel adv otherwise, having Terry at rec would be beneficial.

QB - Caesar's wife problem: Have it here. Don't want to stop talking to ATE.

ATE - Add bidder - Dan Parks....

QB Dan inst of geography...

FG This makes sense from viewpoint of investors.

Resigning instead of LOA? FG

LOA from Romulus as well.

3

FROM: [illegible] TO: [illegible]

STAMP & RETURN

F-6.p1p
12.0

WILKINSON, BARKER, KNAUER & QUINN

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RECEIVED

July 10, 1997

JUL 10 1997

Joseph Weber, Esquire
Enforcement Division
2025 M Street, N.W., Room 8318
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Investigation with respect to Anthony T. Easton

Dear Mr. Weber:

This is in response to the June 4, 1997 letter sent to you by Thomas Gutierrez, counsel for Mr. Anthony T. Easton. Mr. Gutierrez attaches to his letter a summary of his recollection of statements made by me during an interview held on or about March 20, 1997. I would like to take this opportunity to correct or clarify certain of the statements Mr. Gutierrez attributes to me.

At the outset, I would like to make clear that I believe, based on the evidence I have seen, that Mr. Easton misrepresented facts to me concerning the bidding error. In particular, Mr. Easton represented to me on the date of the bidding error that his spreadsheet printout concerning the Round eleven bids, which he had sent to both the FCC and me, was a printout of the spreadsheet reflecting updates entered immediately after the bidding to conform to changes in bids made while on line. I had no reason at the time to believe this to be untrue, and accordingly viewed this printout as the best available evidence of what PCS 2000, through its bidding agent, believed in good faith it had bid. Since that time it has become apparent to me, based on a review of other evidence, that this was not the case, and that the printout appears to be a reconstruction, created after discovery of the bidding error, of what PCS 2000 had intended to bid. To accurately reflect my present recollection of the relevant facts, I would restate certain numbered paragraphs contained in the enclosure to Mr. Gutierrez's letter as follows:

2. Mr. Easton told Mr. Sullivan that he believed the documents faxed to Mr. Segalos at the FCC accurately reflected the bid that Mr. Easton submitted to the FCC. Mr. Easton stated to Mr. Sullivan that the printout was from his spreadsheet program, not from the bidding software. He indicated that bids had been entered in his spreadsheet program, the output of which was then transferred from his spreadsheet program to the FCC bidding terminal; that he had then made changes to the bids for several markets other than Norfolk manually

DEPOSIT
EXHIB

#10

while on-line on the bidding terminal for eligibility-related reasons. Mr. Easton further indicated that after final transmission of the bids to the FCC, he had gone back into his spreadsheet program and updated the data to reflect the changes made on-line. He said that upon saving the changes, the original spreadsheet data was overwritten. Mr. Easton indicated to Mr. Sullivan that the spreadsheet transmitted to the FCC was the updated spreadsheet, since the original spreadsheet file no longer existed. Mr. Easton did not represent to Mr. Sullivan that the faxed spreadsheet was an actual reproduction of the original bid. As it was faxed to Mr. Sullivan, the spreadsheet printout did not indicate whether it contained data actually submitted to the FCC or whether it was updated after the on-line bidding session.

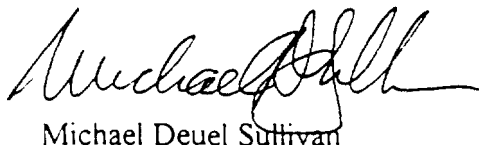
3. Mr. Easton told Mr. Sullivan that one feature of the FCC bidding software was that when a bid is transmitted, it alerts the bidder to certain eligibility conditions, and that in the bidding round at issue the initial attempt to transmit the bid resulted in such an alert. Mr. Sullivan does not recall whether Mr. Easton said the alert resulted from bids that would lower PCS 2000's bidding eligibility or from bids exceeding PCS 2000's eligibility. It was in response to this message on the bidding terminal that Mr. Easton made on-line changes to the bids.
4. In a conference call Mr. Sullivan had with the FCC at about 7:00 p.m. on January 23, an FCC official asked whether PCS 2000 was blaming the FCC for the overbid. Mr. Sullivan recalls responding that PCS 2000 did not know the cause of the overbid and asked whether the FCC could examine its records of the data received to determine whether the bid was actually received as it was subsequently posted. He was informed that the FCC had already confirmed that the bid was posted as received.
6. Mr. Easton had initially maintained to Mr. Sullivan that he believed the bid had been correctly entered and must have been misposted by the FCC. There was no conclusive evidence that the bidding error was the result of an incorrect posting of the bid received by the FCC, however, and similarly there was no available evidence that a transmission error had occurred in the telephone network. Mr. Easton's spreadsheet, having been updated after the bid was submitted, was not highly probative of the bid actually submitted, although Mr. Easton indicated that the spreadsheet represented the bid he had submitted. In light of that fact, and the fact that the FCC had

informed Mr. Sullivan that the bid was posted as received, PCS 2000 decided it could not establish that the bid was directly caused by the FCC and was uncertain as to the nature and cause of the bidding error.

7. In a series of discussions with Mr. Sullivan over the period January 23-26, Mr. Easton's recollections of the events concerning the overbid varied from time to time with respect to particular facts. Mr. Sullivan viewed these inconsistencies or variations in Mr. Easton's recollection as being due to the confusion of the moment and an attempt to reconstruct the true facts based on fallible memory. Mr. Sullivan did not believe at the time that these apparently minor inconsistencies were cause to doubt the basic veracity of Mr. Easton's statements.
8. On January 25-26, as Mr. Easton thought more about the overbid, he told Mr. Sullivan that he believed that he or Ms. Hamilton must have been responsible for the error.
11. A decision to hire the Wilson firm was made on or about February 7.
12. Mr. Easton disagreed with many statements and conclusions in the Wilson Report upon reviewing it. Mr. Sullivan recalls that Mr. Breen took the report's conclusions seriously, but found certain of its characterizations as they pertained to him to be amusing. While Mr. Breen did not recall the details of his conversation with Ms. Hamilton clearly, he acknowledged to Mr. Sullivan that his comment about "Terry being Terry" had most likely been in regard to Mr. Easton's initial defensive reaction to the bidding error, maintaining that it must have been the FCC's fault, a position Mr. Easton no longer maintained by the date of Mr. Breen's conversation with Ms. Hamilton.

I hope this eliminates any question as to my recollection of the events at issue.

Sincerely,



Michael Deuel Sullivan

cc: Thomas Gutierrez, Esquire
Tyrone Brown, Esquire
Thomas Carroccio, Esquire

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June 4, 1997

HAND DELIVERED

Howard C. Davenport, Chief
Enforcement Division
Wireless Telecommunications Bureau
Federal Communications Commission
Washington, D. C. 20554

Myron C. Peck, Deputy Chief
Enforcement Division
Wireless Telecommunications Bureau
Federal Communications Commission
Washington, D. C. 20554

Joseph Paul Weber, Esquire
Enforcement Division
Wireless Telecommunications Bureau
Federal Communications Commission
Washington, D. C. 20554

Re: Quentin L. Breen
Westel, L.P.
Westel Samoa, Inc.

Gentlemen:

As you are aware, this firm represents Quentin L. Breen with regard to the events surrounding the C Block Broadband PCS Round 11 Norfolk, Virginia BTA auction bid submitted by PCS 2000, L.P. ("PCS 2000") on January 23, 1996 ("Bidding Error"). This firm also represents Westel Samoa, Inc. and Westel, L.P. (collectively "Westel"), of which entities Mr. Breen is a principal, with regard to their respective pending C and F Block Broadband PCS applications. The Commission, in the "Notice of Apparent Liability for Forfeiture" issued in the PCS 2000 proceeding, indicated that any impact of the Bidding Error on Mr. Breen's qualifications to be a Commission licensee would be examined in the context of the Westel applications.¹ We are aware, and you have acknowledged, that, at least since the issuance of the NAL, you have been conducting an investigation of the Bidding Error. This submission is being delivered to you so as to assist you in that investigation.

¹ PCS 2000, L.P., 12 FCC Rcd. 1703, 1718 (1997) ("NAL").

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Joseph Paul Weber, Esquire
Enforcement Division
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From all indications to date, the Commission and the Bureau place substantial reliance on the February 19, 1996, report on the Bidding Error, which report was prepared by the law firm of Young, Vogl, Harlick, Wilson & Simpson, LLP, and submitted to the Commission by PCS 2000 ("Report"). While we believe that most of the facts presented in the Report are substantially correct in most material respects,¹ we also believe it would be imprudent, unfair, unwarranted and an abdication of responsibility for either the Bureau or the Commission simply to adopt the Report's characterizations and conclusions, many of which are not well founded and, therefore, are inaccurate or incorrect. It should not surprise the Commission or the Bureau that there are deficiencies in the Report's characterizations and conclusions, because the Report, itself, warned:²

This Report was prepared on an extremely tight time schedule. Its contents are based solely on the information we were able to develop during the brief period from February 9 through February 16 [1996], and such information is necessarily incomplete. Moreover, the complexities of the Company's computer systems and processes, combined with the substantially inconsistent versions of events recounted by key participants, made the investigation particularly challenging. It is in this context that the reader should consider the conclusions and reasoning [of the Report].

And the Commission acknowledged that, "[i]n contrast to Mr. [Anthony T.] Easton, [at time of the NAL] the Commission does not know the full extent of Mr. Breen's involvement in the deception."³ In the face of warnings from both the Report and this submission, and in light of the Commission's stated concern as to the completeness of the record, it is incumbent on the Commission and the Bureau to avoid undue reliance on the Report's characterizations and conclusions when considering Westel's applications or Mr. Breen's qualifications. In addition, the

¹ Of course, where the Report presents inconsistent or contradictory factual assertions or contentions, or where the Report notes that an individual has taken exception to another's version of the facts, such facts cannot be taken as settled.

² Report, at p. 1, emphasis added.

³ NAL, at 1717, emphasis in original.

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Joseph Paul Webber, Esquire
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Commission and the Bureau, in reviewing Westel's applications and Mr. Breen's qualifications, must consider the additional facts provided by the attached declarations, which facts either were not perceived by the Report's authors, or were ignored by those authors.

The Commission has indicated it is concerned specifically about Mr. Breen's candor. That concern is based on a perception derived from the Report that Mr. Breen was "aware of Mr. Easton's actions," but did not cause them to be reported to the Commission.¹ In accusing Mr. Breen of possibly having lacked candor as to facts of which he is believed to have been "aware", the Report, and the Commission in reliance on the Report, reached conclusions as to both the knowledge and state of mind of Mr. Breen. Where, as here, so much depends on an individual's perception and state of mind, it is essential that chronology, sequence, nuance, and the quantity and quality of information be given proper consideration. It is submitted that any fair and objective review and consideration of the attached declarations of Mr. Breen and Cynthia L. Hamilton will illuminate, clarify, or conclusively rebut certain erroneous characterizations and conclusions set forth in the Report. And any open-minded reexamination of Mr. Breen's activities in light of those declarations will compel a determination that Mr. Breen did not lack candor with regard to the Bidding Error.

Any objective examination of Mr. Breen's qualifications should start, and probably should end, at the focal point of the Commission's concern regarding Mr. Breen: the January 26, 1996, meeting between Ms. Hamilton and Mr. Breen.² Neither Ms. Hamilton nor Mr. Breen had planned the meeting; it was completely spontaneous.³ And it was not a lengthy or intense meeting; it

¹ Id.

² There has been absolutely no indication that Mr. Breen had any first-hand knowledge of Mr. Easton's activities. As noted in the Report, and as confirmed by Mr. Breen's attached Declaration, Mr. Breen was not present at the times "Mr. Easton's actions" were perpetrated.

³ One of the unjust ironies of this matter is that, had Mr. Breen simply ignored Ms. Hamilton's arrival at SMG on January 26, 1996, his conduct would not today be a subject of controversy. But, because he diligently and conscientiously initiated contact

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was brief and touched on several personal matters in addition to the Bidding Error. During the meeting, Ms. Hamilton, who had not anticipated encountering Mr. Breen, made a purely extemporaneous presentation, presumably based on what she had observed before her January 23, 1996 departure from the offices of the San Mateo Group ("SMG"). Because of her acknowledged concern about retaliation by Mr. Easton, however, Ms. Hamilton refrained from speaking openly; she was "circumspect". She chose to not even mention to Mr. Breen that she had been able to save vital documentary evidence, much less that she had seen fit to bring such evidence to the attention of the Commission. On the other hand, Mr. Breen brought to his unanticipated meeting with Ms. Hamilton certain preconceptions derived from three days of involvement in PCS 2000's ongoing examination of the Bidding Error; three days during which Ms. Hamilton had been absent from SMG's offices. He also was aware of the content and intent of PCS 2000's waiver request, which had already been filed with the Commission in Washington by the time Ms. Hamilton and Mr. Easton met in San Mateo. The tenor and context of the Hamilton-Breen meeting portrayed in both declarations certainly gives credence to Mr. Breen's statement that he "perceived no material inconsistencies between what Ms. Hamilton told [him] on January 26, 1996, and the representations in the waiver request PCS 2000 had filed earlier that day."¹ The only reasonable conclusion

with Ms. Hamilton, even though he knew she had a negative view of the events of January 23, 1996 (to the extent she had resigned from her job without any apparent assurance of other immediate employment), Mr. Breen now finds his conduct and motives being second-guessed by some claiming the benefits of 20/20 hindsight, but, actually hampered by 20/20 tunnel vision. If one now seeks to judge Mr. Breen's conduct, one must consider the broad context of that conduct; selective recollection cannot be tolerated.

¹ Michael Duell Sullivan, of the law firm of Wilkinson, Barker, Knauer & Quinn, is the communications attorney who advised and assisted PCS 2000 in the immediate wake of the Bidding Error, and particularly in the preparation of the "Request for Waiver" filed with the Commission on January 26, 1996. You interviewed Mr. Sullivan on March 20, 1997, at which interview the undersigned was present. It is suggested that the information imparted to you by Mr. Sullivan in the course of that interview gives further credence to Mr. Breen's statement that he "perceived no material inconsistencies between what Ms. Hamilton told [him] on January 26, 1996, and the representations in the

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one can fairly draw from the various portrayals of the Hamilton-Breen meeting is that, as a result of their differing perspectives, two conscientious and well-intentioned people attributed very different meanings to the same conversation. Colloquially stated, while Ms. Hamilton sought to tell Mr. Breen about "apples", he perceived her to be talking about "oranges". In any event, because Mr. Breen certainly was not made "aware of Mr. Easton's actions" as a result of his meeting with Ms. Hamilton, he cannot be found to have lacked candor for failing to reveal that which he did not perceive.

Although we would expect a fair and objective examination of the Hamilton-Breen meeting to fully exonerate Mr. Breen, we must caution the Commission against following the Report into an unwarranted comparison between Mr. Breen's response to his meeting with Ms. Hamilton, and Javier Lamoso's response to Ms. Hamilton's subsequent telephone conversation with Mr. Lamoso. Any such comparison is invalid and unfair, in part because of the very different circumstances surrounding Ms. Hamilton's respective encounters with each of those gentlemen, and because there were enormous differences in both the quantity and the quality of the information Ms. Hamilton imparted to each of them. Ms. Hamilton had not planned to meet with Mr. Breen, but she initiated her telephone conversation with Mr. Lamoso. When Ms. Hamilton met with Mr. Breen, she was "circumspect". When she called Mr. Lamoso, she was direct and emphatic. Ms. Hamilton "did not even give Mr. Breen an indication that any documentary evidence still existed." Ms. Hamilton not only told Mr. Lamoso that she had relevant documents she had rescued from the SMG offices, she also informed him she had provided copies of the documents to the Commission (and she made arrangements to send Mr. Lamoso copies by facsimile). Is it any wonder that Mr. Breen and Mr. Lamoso had different reactions to their respective conversations with Ms. Hamilton? This recitation does not in any way diminish Mr. Lamoso's unquestioned integrity, nor should it. Instead, these facts simply show that Mr. Breen's reaction was not comparable to Mr. Lamoso's because their respective encounters with Ms. Hamilton were not comparable, either in form or in substance. The reactions of these two men were not the same because the stimuli were not the same. Accordingly, there is no valid reason to judge Mr. Breen and Mr. Lamoso on a comparative basis. Instead, each man's reaction should be recognized and accepted for what it was: an appropriate and

walver request PCS 2000 had filed earlier that day."

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legitimate response to the quantity and quality of information presented to him.

We are submitting these materials for your use in your investigation(s) of the Bidding Error, Mr. Breen or Westel. However, because of the generally non-public nature of agency investigations, these materials have not been tendered through the Office of the Secretary, but, instead, are being delivered directly to you, the members of the Commission's Staff whom we understand to be responsible for conducting an appropriate investigation of the Bidding Error. We understand that, by our proceeding in this manner, it will be within the Bureau's discretion to determine whether and when these materials should be made part of the public record in the Westel application proceedings (or in any other proceeding to which the Bureau or the Commission may deem them relevant). In that light, we are assuming that, by our delivery of these materials to you, they will be viewed as part of the record before the Bureau and the Commission during any consideration of the Bidding Error, including any consideration of the Bidding Error's implications for the Westel application proceedings.² If our assumption in this regard is not correct, please so notify us in order that we may effectuate a formal submission of these materials to the public record in the Westel application proceedings. Absent any notification from you to the contrary, we will assume that these materials will be considered by any and all components of the Commission which may consider the Bidding Error in any context.³

² Our records reflect that the Commission has assigned the Westel applications the following file numbers: 00560-CW-L-96; 00129-CW-L-97; 00862-CW-L-97; 00863-CW-L-97; 00864-CW-L-97; 00865-CW-L-97; and 00866-CW-L-97.

³ This submission is intended solely for use in connection with your investigation, which is focussed on the Bidding Error. Because this submission has not been formally directed to the Westel application proceedings, and because the petition of National Telecom PCS, Inc. ("NatTel") against the C Block application of Westel Samoa did not address the Bidding Error, and in light of NatTel's "Withdrawal of Supplement to Petition to Deny" disclaiming any interest in the Bidding Error, we do not believe service upon NatTel is required. Therefore, NatTel has not been served with a copy of this submission. However, if you have any reason to be concerned that the Commission's ex parte

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Although we have attempted to be thorough in conducting an investigation of the Bidding Error on behalf of Mr. Breen and Westel, we cannot claim that our efforts have exhausted all potential sources. Certain resources available to the Commission have not been available to us (e.g., compulsory process or the threat of compulsory process). And, not surprisingly, continuing controversy and litigation between Mr. Breen and Mr. Easton have presented insurmountable obstacles to obtaining any information of probative value from that quarter. Also, in some instances, we have forborne from contacting witnesses identified in the Report (e.g., Rosalyn Makris) because their testimony would be merely cumulative to that of another, more critical witness. Despite these limitations, we believe our investigation and this submission have brought to light critical information sufficient to allow the Commission to determine that Mr. Breen and Westel possess the qualifications required of Commission licensees.

Should the Commission or its Staff still have questions regarding, or would benefit from further clarification of, any matters surrounding the Bidding Error, Mr. Breen stands ready to revisit those matters in an attempt to further facilitate the Commission's review of the matter. If the Commission or the Bureau wish to avail themselves of Mr. Breen's offer in this regard, please contact either of the undersigned.

Sincerely,

BELL, BOYD & LLOYD

By:


A. Thomas Carroccio

By:


Ross A. Buntrock

cc: William E. Kennard, Esquire
Peter A. Tenhula, Esquire

rules may require that NatTel be served with a copy of this submission, we will undertake to serve NatTel immediately upon being informed that you have a concern in this regard.

DECLARATION OF QUENTIN L. BREEN

I, Quentin L. Breen, under penalty of perjury, hereby declare and state as follows:

1. During the Broadband PCS C Block Auction conducted by the Federal Communications Commission ("FCC"), I was one of the authorized bidding agents for PCS 2000, L.P. ("PCS 2000"). The bidding activities of PCS 2000 were conducted from the offices of the San Mateo Group, Inc. ("SMG") in San Mateo, California.

2. Because of a weather-related delay in my return to San Mateo from my residence in Chiloquin, Oregon, I was not in the SMG offices during the business day on January 23, 1996. Accordingly, I have no first-hand knowledge as to anything that transpired in the SMG offices prior to my 6:30 p.m. (PST) arrival on that date.

3. Before departing my residence on January 23, 1996, I discussed PCS 2000's bidding strategy for the day with Anthony T. Easton. In addition, during the nine-hour drive from Oregon to San Mateo, I received and made telephone calls to and from the SMG offices. Because of hazardous driving conditions, especially in the early part of my trip, most of those calls were very brief. One of the calls I received on my mobile telephone was from Mr. Easton, who had called to inform me that the FCC's reports for Round 11 showed PCS 2000 as making a \$180 million bid, instead of an \$18 million bid, for the Norfolk, Virginia BTA. I told Mr. Easton that having such a bid charged to PCS 2000 was a problem to be addressed by communications counsel and that he immediately should contact PCS 2000's counsel, Michael Duell Sullivan, of Wilkinson, Barker, Knauer & Quinn. In another of my en route conversations, I asked Ronit Milstein to consult with Mr. Sullivan regarding appropriate language to be used in disclosing the bid error on the voice mail auction status information system used by PCS 2000 limited partners.

4. On Wednesday morning, January 24, 1996, Mr. Easton and I conferred with Mr. Sullivan regarding procedures for bid withdrawal. In accordance with Mr. Sullivan's instructions, PCS 2000's bid for the Norfolk, Virginia BTA was withdrawn during that day's bid withdrawal period.

5. Also on January 24, 1996, Ms. Milstein informed me that Cynthia L. Hamilton had submitted her resignation from SMG by facsimile. That day Ms. Milstein further informed me that Ms. Hamilton had told her that Ms. Hamilton thought the Norfolk bid was Mr. Easton's fault, and that he had been less than truthful when he blamed the bidding error on the FCC's computer system. Ms. Milstein also indicated that Ms. Hamilton was concerned that

Mr. Easton would attempt to blame Ms. Hamilton for the bidding error.

6. After initial discussions with Mr. Sullivan and Mr. Easton, I concluded that the Norfolk bidding error could not legitimately be blamed on anything other than an error in PCS 2000's own computer system or bidding procedures, and certainly was not attributable to the FCC or its auction procedures. Because of Mr. Easton's familiarity with PCS 2000's computer system and bidding processes, and because he had prepared and overseen the submission of PCS 2000's Round 11 bids, it was decided that Mr. Easton's primary responsibility for the immediate future would be to work with Mr. Sullivan in the preparation of a waiver request. It also was decided that any waiver request should acknowledge PCS 2000's responsibility for the bidding error and should make clear that PCS 2000 attributed no blame to the FCC. Although my primary responsibility would be to conduct PCS 2000's bidding activities, I was to be kept informed of critical facts and decisions regarding the waiver request.

7. After Mr. Easton and Mr. Sullivan drafted a waiver request package, I reviewed their drafts before they were filed with the FCC. In reviewing the drafts, I found nothing that was inconsistent with the facts as I understood them at that time, and I was satisfied that the waiver request included an appropriate acknowledgment of PCS 2000's responsibility for the bidding error. On that basis, I acceded to the filing of the waiver request with the FCC. The waiver request was filed with the FCC before its close of business on January 26, 1996.

8. During the late afternoon of January 26, 1996, I was participating in a meeting of the Executive Committee of Unicom Corporation, which was held in the conference room at the offices of SMG. One wall of that conference room is glass and looks out on SMG's reception area. Around 4:30 p.m. (PST), I noticed Ms. Hamilton in the reception area. Recalling Ms. Milstein's comments about Ms. Hamilton's concerns, I left the meeting to talk with her. When I asked how she was doing, Ms. Hamilton indicated there was something she wanted to tell me in private, and asked if we could go into my office.

9. While in my office, Ms. Hamilton informed me that she believed Mr. Easton had personally made the error which resulted in PCS 2000's Norfolk bid, and that he was attempting to pin the blame elsewhere. I responded with a phrase routinely used at SMG, "That's just Terry being Terry," which referred to Mr. Easton's aversion to acknowledging blame for any problem or error. Ms. Hamilton went on to indicate that Mr. Easton had lied to the FCC and had disposed of documents in attempts to cover up his error. However, nothing I perceived in listening to Ms. Hamilton caused me to believe that Mr. Easton's deception to the